UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

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| DEMANCE BEASLEY,<br><br>Plaintiff,<br><br>v.<br><br>BRUCE WESTBROOKS and BRANDI MCCLURE,<br><br>Defendants. | Case No. 3:16-cv-03010<br>Honorable Laurie J. Michelson<br>Magistrate Judge Barbara D. Holmes |

**ORDER REGARDING REPORT AND RECOMMENDATION [66] AND DISMISSING CASE WITH PREJUDICE**

Before the Court is Magistrate Judge Barbara D. Holmes' Report and Recommendation. (R. 66.) At the conclusion of her December 18, 2017 Report and Recommendation, Magistrate Judge Holmes notified the parties that they were required to file any objections within 14 days of service and that "[f]ailure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation." (R. 66, PID 548.) It is now February 5, 2018. As such, the time to file objections has long-since expired. And no objections have been filed.

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party shall file objections with the district court or else waive right to appeal." And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit's waiver-of-appellate-review rule rested on the assumption "that the failure to object may constitute a procedural default waiving review *even at the district court level*." 474 U.S. at 149 (emphasis

added); *see also Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at *8 (E.D. Mich. Apr. 16, 2012) ("The Court is not obligated to review the portions of the report to which no objection was made." (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge's Report and accepts her recommended disposition. It follows that this Court DENIES Beasley's motions for a stay (R. 57) and for an extension of time (R. 65); GRANTS Defendant Bruce Westbrooks' motion for judgment on the pleadings (R. 32); GRANTS Defendant Brandi McClure's motion for summary judgment (R. 42); and DISMISSES this case WITH PREJUDICE. As this order resolves this litigation, a separate judgment will issue.

SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
U.S. DISTRICT JUDGE

Dated: February 5, 2018

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on February 5, 2018.

s/Keisha Jackson
Case Manager